

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :		CRIMINAL NO.
v.	:	DATE FILED: September 4, 2003
BARTLETT L. DEHAVEN	:	VIOLATIONS: 18 U.S.C. § 1341 (Mail fraud – 6 counts)
	:	18 U.S.C. § 1343 (Wire fraud – 4 counts)
	:	18 U.S.C. § 1028(a)(7) (Identity theft -- 1 count)
	:	18 U.S.C. § 1512(b)(1) (Witness tampering – 1 count)

INDICTMENT

COUNTS ONE THROUGH THREE
(Mail Fraud – 18 U.S.C. § 1341)

THE GRAND JURY CHARGES THAT:

At times material to this Indictment:

1. Defendant BARTLETT L. DEHAVEN lived in Warminster, Pennsylvania.
2. Ubid was an Internet-based company which operated a commercial interactive online auction service. Ubid acted as a broker between sellers of items and potential buyers. When a seller and a buyer were put in contact with each other through Ubid's auction service, the finalization of the transaction, including payment for and delivery of the item, was left to be arranged by the buyer and the seller.
3. PayPal was an internet-based company which provided a payment service. This allowed buyers in internet-based auctions to pay sellers by using a credit card or by having funds directly

withdrawn from the buyer's bank account. This service particularly was directed at auctions where the sellers did not themselves have merchant agreements with credit card companies, such as sellers who sold items on internet auctions as a hobby and not as a primary business. To use PayPal's payment services the buyer and seller must both have had accounts with PayPal. When a buyer and seller used PayPal to do the payment for an internet auction transaction, PayPal first charged the buyer's credit card or bank account for the amount of the transaction. Then, having obtained the buyer's funds in this way, PayPal credited the seller's PayPal account with the amount of the auction purchase, less a fee which PayPal charged for this service. The funds were then available to the seller, and the seller could request that the funds be paid to him in one of several ways. One way the seller could request payment was by having PayPal electronically transfer the funds due to the seller to the seller's bank account as registered with PayPal. The seller could also ask that PayPal mail a paper check for the amount in the seller's account.

4. Defendant BARTLETT L. DEHAVEN offered merchandise for sale on Ubid internet auctions. He offered this merchandise using the name of a real individual, CD, and an account identifier based on that name, whose name is known to the grand jury. The items which defendant BARTLETT L. DEHAVEN posted for sale on Ubid auctions using this identifier included electronic equipment such as plasma televisions and cell phones.

5. Defendant BARTLETT L. DEHAVEN accepted winning bids from other Ubid users (the buyers) for items which he had posted for auction on Ubid auctions. Defendant BARTLETT L. DEHAVEN instructed the winners to pay him for the items he auctioned by sending a check or money order for a specified amount to the address of CD in Doylestown, Pennsylvania, or by transferring funds to him through an account with PayPal that he had established in the name of CD.

6. Six buyers sent checks for the requested amounts to CD at CD's address in Doylestown, Pennsylvania, as directed by defendant BARTLETT L. DEHAVEN but received no merchandise in return. Three of these buyers sent their checks by United States Mail, and three of these buyers sent their checks by Federal Express or Airborne Express, commercial interstate carriers.

7. Four buyers caused PayPal to transfer funds to the PayPal account of CD, as directed by defendant BARTLETT L. DEHAVEN, but received no merchandise in return.

8. In or about October and November, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

BARTLETT L. DEHAVEN

devised and intended to devise a scheme to defraud, and to obtain money by means of false and fraudulent pretenses, representations and promises, from victims seeking to purchase merchandise using internet-based auctions.

The Scheme

9. It was an object of the scheme to defraud that defendant BARTLETT L. DEHAVEN obtained and attempted to obtain money totaling approximately \$45,634.72 in the form of payments from ten individuals by falsely representing that he would provide each item ordered if the victim won the bidding in the internet auction and paid the auction price, and sometimes also an additional charge for shipping.

10. It was part of the scheme to defraud that defendant BARTLETT L. DEHAVEN obtained assistance from a person, TH, known to the grand jury, who had access to CD's personal and financial information. TH took CD's driver's license and gave it, or a copy of it, to DEHAVEN.

It was further part of the scheme to defraud that:

11. On or about September 25, 2002, defendant BARTLETT L. DEHAVEN opened a bank account in the name of CD and using her true home address with an internet based bank called NetBank. NetBank gave this account the account number 11001785754.

12. Defendant BARTLETT L. DEHAVEN obtained statements and account information concerning a bank account in the name of CD with the Bank of America. Bank of America gave this account the account number 004127732312.

13. On or about October 6, 2002, defendant BARTLETT L. DEHAVEN established a PayPal account in the name of CD, and using CD's true home address. DEHAVEN requested that PayPal link his PayPal account with two bank accounts, NetBank account 11001785754 and Bank of America account 004127732312.

14. Defendant BARTLETT L. DEHAVEN used a computer connected to the Internet to offer merchandise for sale through the auction site Ubid.

15. Defendant BARTLETT L. DEHAVEN used the name of CD and a screen name based on CD's name when participating as a seller in these auctions.

16. Defendant BARTLETT L. DEHAVEN participated as a seller of this merchandise in auctions conducted through the Ubid internet site, offering one or more units per auction, until the auction closed and a winner was or winners were declared.

17. Defendant BARTLETT L. DEHAVEN contacted the winner or winners by e-mail using a computer, advised them that they had won the auction, and directed them to send payments by check or money order to the address of CD in Doylestown, Pennsylvania, or to send payment by using PayPal.

18. TH had access to the mail which was delivered to CD in Doylestown, Pennsylvania.

19. Defendant BARTLETT L. DEHAVEN represented that he would provide the items he had auctioned and which had been bid upon by the victims when they sent their payments.

20. Defendant BARTLETT L. DEHAVEN failed to send any merchandise to the victims after the victims sent the requested payments.

The Mailings

21. On or about the dates shown below, in the Eastern District of Pennsylvania and elsewhere, defendant

BARTLETT L. DEHAVEN,

having devised and intending to devise this scheme, for the purpose of executing the scheme and attempting to do so, knowingly caused to be delivered by mail according to the direction thereon a matter or thing, that is, caused letters to be sent using the United States Postal Service from the locations shown below and delivered by the Postal Service to Doylestown, Pennsylvania, providing payment for the merchandise bid upon:

Count	Date	Buyer	Amount	From	To
1	11/6/02	JH	4300.00	California	Doylestown, PA
2	11/8/02	SJ	6600.00	Texas	Doylestown, PA
3	10/23/00	JV	3500.00	New Jersey	Doylestown, PA

All in violation of Title 18, United States Code, Section 1341.

COUNTS FOUR THROUGH SIX

(Mail Fraud – 18 U.S.C. § 1341)

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 20 of Count One are realleged here.
2. On or about the dates shown below, in the Eastern District of Pennsylvania and elsewhere, defendant

BARTLETT L. DEHAVEN,

having devised and intending to devise this scheme, for the purpose of executing the scheme and attempting to do so, knowingly caused to be sent and delivered any matter or thing by commercial interstate carrier, that is, caused letters to be sent using the commercial carriers shown below from the locations shown below and delivered by the commercial carrier to Doylestown, Pennsylvania, providing payment for the merchandise bid upon:

Count	Date	Buyer	Amount	From	To	Carrier
4	11/7/02	LS	3800.00	New York	Doylestown, PA	Fed-Ex
5	11/8/02	JG	6300.00	Florida	Doylestown, PA	Airborne Express
6	11/11/02	DM	8300.00	Missouri	Doylestown, PA	Airborne Express

All in violation of Title 18, United States Code, Section 1341.

COUNTS SEVEN THROUGH TEN

(Wire Fraud – 18 U.S.C. § 1343)

THE GRAND JURY FURTHER CHARGES:

1. Paragraphs 1 through 20 of Count One are realleged here.
2. On or about the dates shown below, in the Eastern District of Pennsylvania and elsewhere, defendant

BARTLETT L. DEHAVEN,

having devised and intending to devise this scheme, for the purpose of executing the scheme, knowingly caused to be transmitted by means of wire communication in interstate or foreign commerce, writings, signs, signals, pictures or sounds, that is, knowingly caused the buyers listed below to send instructions by wire from their computer to a computer for PayPal in California in order to transfer funds to the defendant's account for the purchase of merchandise:

Count	Date	Buyer	Amount	From	To
7	11/8/02	TL	3500.00	Minnesota	California
8	11/9/02	KL	2498.00	Florida	California
9	11/9/02	JK	436.72	New York	California
10	11/9/02	DG	6400.00	Florida	California

All in violation of Title 18, United States Code, Section 1343.

COUNT ELEVEN
(Identity Theft – 18 U.S.C. § 1028(a)(7))

THE GRAND JURY FURTHER CHARGES THAT:

From on or about July 31, 2002 to on or about November 9, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

BARTLETT L. DEHAVEN

knowingly transferred and used, without lawful authority, the means of identification of another person, that is, CD's name, address, date of birth, driver's license number, and social security number, with the intent to commit and to aid and abet an unlawful activity that constitutes a violation of federal law, that is, with the intent to commit and to aid and abet the crimes of mail fraud and wire fraud, and the transfer and use was in and affecting interstate commerce, in violation of Title 18 United States Code, Sections 1341 and 1343, as charged in Counts 1 through 10 of this indictment.

In violation of Title 18, United States Code, Section 1028(a)(7).

COUNT TWELVE

(Witness Tampering – 18 U.S.C. § 1512(b)(1))

THE GRAND JURY FURTHER CHARGES THAT:

On or about May 14, 2003, in the Eastern District of Pennsylvania, defendant

BARTLETT L. DEHAVEN

knowingly corruptly persuaded and attempted to corruptly persuade another person, with intent to influence the testimony of that person in an official proceeding, that is, did knowingly and corruptly attempt to persuade another person to give false testimony before a federal grand jury sitting in Philadelphia, Pennsylvania.

In violation of Title 18, United States Code, Section 1512(b)(1).

A True Bill:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney